

STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1151



State of Minnesota,

Respondent,

vs.

Ron Wesley Epps,

Appellant.

ORDER OPINION

Hennepin County District Court
File No. 27-CR-20-6645

Considered and decided by Reilly, Presiding Judge; Slieter, Judge; and Bryan, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Ron Epps was charged with violating a domestic-abuse no-contact order (DANCO) that was issued as part of pretrial release conditions in a separate felony domestic assault case. He pleaded guilty to the DANCO violation, and the domestic-assault charge was dismissed. Before sentencing, Epps filed a written motion to withdraw his guilty plea on the grounds that he “entered his plea under duress caused from being in custody during the COVID-19 pandemic.”

2. At the sentencing hearing, the district court addressed Epps’s motion to withdraw. Epps advanced several reasons on the record to support his withdrawal request, but none of these stated reasons related to duress caused by being incarcerated during the COVID-19 pandemic. Nor did he rely on or reference the data included in his appellate

brief regarding the health risks that COVID-19 presented to individuals his age in congregate living environments, such as in jails and prisons. Instead, the reasons Epps provided to support his withdrawal request at the sentencing hearing related to complaints about his attorneys, mistrust of the judicial system, and purported new evidence.

3. The district court determined that the stated reasons offered at the sentencing hearing conflicted with the sworn statements Epps made at the time of the plea. At the plea hearing, Epps first stated that he was pleading guilty because he “need[ed] to be free,” and that he did not want to wait for a trial. When the district court explained that it could not accept a guilty plea from someone who is not guilty, however, Epps declared that he was pleading guilty because he was “guilty of the charge.” Epps then admitted facts “sufficient for [the court] to believe that [Epps] was guilty.” The district court denied Epps’s withdrawal request because it did not find the stated reasons for withdrawal to be sincere given the sworn statements that Epps made to the contrary at the time of the plea. The district court sentenced Epps to 15 months’ imprisonment, stayed for three years.

4. Epps appealed his conviction, arguing that the factual basis for the guilty plea did not include an admission to having any previous qualifying domestic violence convictions. Epps also argued that the district court erred in denying his presentencing request to withdraw from the plea. On July 12, 2021, we concluded that the guilty plea was not valid and issued a nonprecedential opinion reversing Epps’s conviction. *State v. Epps*, No. A20-1151, 2021 WL 2908520, at *3 (Minn. App. July 12, 2021), *rev. granted* (Minn. Sept. 30, 2021). We did not consider Epps’s alternative argument that the district

court abused its discretion by denying his presentence motion to withdraw his guilty plea because he pleaded guilty under duress. *Id.* at *2 n.2.

5. The state petitioned for review and the Minnesota Supreme Court granted the request. The supreme court reversed this court's decision, concluding that Epps's guilty plea was valid. *State v. Epps*, 977 N.W.2d 798, 802 (Minn. 2022). The supreme court then remanded the case for us to consider Epps's alternative duress argument. *Id.* We reinstated the appeal and the parties filed supplemental informal briefs updating their research.

6. "A defendant has no absolute right to withdraw a guilty plea after entering it," *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010), and "more than a change of heart is needed to withdraw a guilty plea," *State v. Lopez*, 794 N.W.2d 379, 382 (Minn. App. 2011). A district court "may allow withdrawal any time before sentencing if it is 'fair and just' to do so." *Raleigh*, 778 N.W.2d at 93 (quoting Minn. R. Crim. P. 15.05, subd. 2). The "fair and just" standard requires the district court to consider the following two factors: "(1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea." *Id.* at 97. "A defendant bears the burden of advancing reasons to support withdrawal," and "[t]he State bears the burden of showing prejudice caused by the withdrawal." *Id.* This court reviews the district court's decision to deny withdrawal for an abuse of discretion and will reverse only in a "rare case." *Id.* (quoting *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989)).

7. "To be voluntary, a guilty plea may not be based on any improper pressures or inducements," *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017) (quotation omitted), or "produced through actual or threatened physical harm or by mental coercion overbearing

the will of the defendant,” *State v. Abdisalan*, 661 N.W.2d 691, 694-95 (Minn. App. 2003) (citation and quotation omitted), *rev. denied* (Minn. Aug. 19, 2003). This court reviews a district court’s decision to deny a motion to withdraw before sentencing for an abuse of discretion, giving deference to the district court’s credibility determinations. *State v. Aviles-Alvarez*, 561 N.W.2d 523, 525 (Minn. App. 1997), *rev. denied* (Minn. June 11, 1997); *State v. Jones*, 921 N.W.2d 774, 783 (Minn. App. 2018), *rev. denied* (Minn. Feb. 27, 2019).

8. We are not persuaded by Epps’s arguments of duress for two reasons. First, although the written motion mentioned duress, the stated arguments at the hearing concerned other bases for withdrawal, did not directly relate to the COVID-19 pandemic, and did not include evidence to support the allegation of duress or otherwise establish the presence of any “improper pressures or inducements” “overbearing the will of the defendant” as required by *Dikken*, 896 N.W.2d at 876-77, and *Abdisalan*, 661 N.W.2d at 604. We discern no abuse of discretion in the context of this unsubstantiated duress argument. *See Raleigh*, 778 N.W.2d at 97 (rejecting Raleigh’s argument that he had a fair and just basis to withdraw from his plea because “Raleigh failed to substantiate the reasons he advanced to support withdrawal” and “[n]othing in the record reveal[ed] that Raleigh felt pressured to plead guilty”).

9. Second, under the applicable standard of review, we must defer to the credibility determination that the district court made when it chose to give more weight to the sworn statements that Epps made at the time of the plea than to the statements made by Epps in support of the withdrawal request. *Aviles-Alvarez*, 561 N.W.2d at 525; *Jones*, 921

N.W.2d at 783. Epps declared that he was pleading guilty because he was in fact guilty and not for some other reason, such as because of the risk of being infected with COVID-19 while incarcerated.

10. Because the district court did not abuse its discretion by concluding that Epps did not meet his burden of advancing valid reasons why plea-withdrawal would be fair and just, we need not consider whether the state would be prejudiced by the withdrawal. *See State v. Cubas*, 838 N.W.2d 220, 224 (Minn. App. 2013) (“Even when there is no prejudice to the state, a district court may deny plea withdrawal under rule 15.05, subdivision 2, if the defendant fails to advance valid reasons why withdrawal is fair and just.”), *rev. denied* (Minn. Dec. 31, 2013).

IT IS HEREBY ORDERED:

1. The district court’s judgment is affirmed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: November 10, 2022

BY THE COURT

Judge Jeffrey M. Bryan